

Serial No. 10/532,997
60469-212; OT-5043**REMARKS****102 rejections**

Claims 35, 40, 43, 55-62, 65-68 and 70 are rejected under 35 U.S.C. 102(b) as being anticipated by *Kraft* (US 3,682,289). *Kraft* does not disclose a drive assembly including a plurality of stepchain links each having a plurality of teeth made of an integrated piece of material as claimed. *Kraft* discloses an apparatus for guiding a conveyor including linkages 23 constructed of laminations of steel stamping having projections 25 which form teeth (column 2, lines 42 to 48, Figures 2 and 3). As shown in Figures 2 and 3, a plurality of laminations are stacked together to form the projections 25. The projections 25 are not made of an integrated piece of material. Instead, the projections 25 are made of several laminations that are individual pieces that are not integrated. The claimed invention is not anticipated by *Kraft*.

Kraft also does not anticipate claims 57-62, 65-68 and 70. *Kraft* does not disclose an inner portion adapted to carry a tensile load and a distinct outer portion. *Kraft* only discloses that the linkages 23 are constructed of laminations of steel stampings having projections 25, which does not suggest an inner portion and a distinct outer portion. Moreover, as there is no inner portion, the linkages 23 do not have an inner portion that is adapted to carry a tensile load. The claimed invention is not anticipated by *Kraft*.

Claims 35-38, 40, 43, 44, 54-57, 59-62 and 64-70 are rejected under 35 U.S.C. 102(e) as being anticipated by *Stuffel* (US 6,450,316). *Stuffel* does not disclose anything about an interface between a drive member and a plurality of stepchain links like what Applicant claims. *Stuffel* discloses a drive chain link 40. However, *Stuffel* is silent on an interface between a drive member and the step chain links 40. Therefore, *Stuffel* does not anticipate claims 35-38, 40, 43 and 54-56, and Applicant respectfully requests that the rejection be withdrawn.

Claims 57, 59-62 and 64-70 are also not anticipated by *Stuffel*. *Stuffel* does not disclose a drive assembly including a plurality of stepchain links each having an inner portion adapted to carry a tensile load and a distinct outer portion that includes a plurality of teeth made of an integrated single piece of material. *Stuffel* discloses an escalator with a step flange including a drive chain link 40. However, *Stuffel* does not disclose that the drive chain link 40 includes an inner portion that is adapted to carry a tensile load and a distinct outer portion as claimed. The *Stuffel* drive chain link 40 does not disclose an inner portion and a distinct outer portion. The

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claimed invention is not anticipated, and Applicant respectfully requests that the rejection be withdrawn.

103 rejections

The proposed rejection under 35 U.S.C. 103(a) cannot be made in view of *Stuffel*. *Stuffel* could only qualify as prior art under 35 U.S.C. 102(e). 35 U.S.C. 103(c) states that "subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person." *Stuffel* and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person (Otis Elevator Company). Therefore, *Stuffel* cannot be used in a 103(a) combination because it is subject to assignment to the same person as the present invention.

STATEMENT CONCERNING COMMON OWNERSHIP

Application Serial No. 10/532,997 and U.S. Patent No. 6,450,316 were, at the time of the invention of Application Serial No. 10/532,997 was made, subject to an obligation of assignment to the Otis Elevator Company.

Claims 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kraft*, Claims 39, 45-50, 53 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kraft* in view of *Tanigawa* (US 6,213,278), and Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Kraft* in view of *Green* (US 5,520,585). The claimed invention is not obvious because neither *Kraft* nor the added *Tanigawa* and *Green* references disclose, suggest or teach a drive assembly including a plurality of stepchain links each having a plurality of teeth made of an integrated piece of material. The stepchain links comprise limitations in *Kraft* (see, e.g., column 2, lines 46-47) and, therefore, do not have teeth made of integrated piece of material as claimed. The separate limitations expressly used in *Kraft* make it impossible for the proposed combinations to result in Applicant's claimed invention. Therefore, the references taken together do not render the claimed invention obvious.

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Improper Final rejection

The final rejection of the claims is improper. Applicant filed an Article 34 Amendment on July 9, 2004 with the Chapter II Demand, replacing claims 1-34 with claims 1-21. However, claims 1-21 presented in the Article 34 Amendment were not examined in the first office action mailed on April 27, 2006.

MPEP 1893.01(a)(3) states that:

Amendments to the international application that were properly made under PCT Article 34 during the international preliminary examination phase (i.e., Chapter II) will be annexed by the International Preliminary Examining Authority to the international preliminary examination report (IPER) and communicated to the elected Offices. See PCT Article 36, PCT Rule 70.16, and MPEP § 1893.03(e). If these annexes are in English, they will normally be entered into the U.S. national stage application by the Office absent a clear instruction by the applicant that the annexes are not to be entered.

Applicant filed the Article 34 Amendment during the international preliminary examination phase, the Article 34 Amendment was annexed by the International Preliminary Examination Report (IPER), and the annexes were in English. Applicant also provided a copy of the IPER, including the Article 34 Amendment, with the United States National Stage filing of the PCT application.

Claims 1-21 were presented to the Examiner for examination in the Article 34 amendment, and therefore claims 1-21 should have been examined in the first office action. Applicant represented claims 1-21 in the response to the first office action. The Examiner then issued a final office action with a new rejection. As the claims were not amended in response to the first office action, the new final office action including new rejections is improper.

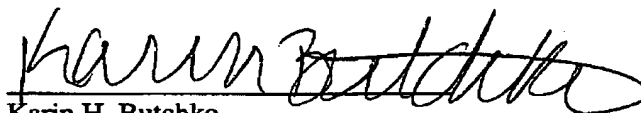
Thus, claims 35-70 are in condition for allowance. No additional fees are seen to be required. If any additional fees are due, however, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional

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fees or credit the account for any overpayment. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

Respectfully Submitted,

CARLSON, GASKEY & OLDS, P.C.

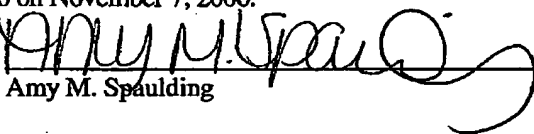


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CERTIFICATE OF FACSIMILE

I hereby certify that this Request for Reconsideration is being facsimile transmitted to the United States Patent and Trademark Office, 571-273-8300 on November 7, 2006.


Amy M. Spaulding